

IX. (SUBSTITUTE) EVIDENCE APPENDIX

Appellant relies upon the following evidence: Declaration Under 37 C.F.R. § 1.132 of Michael Hogan, dated September 29, 2005, a true copy of which is attached hereto. The Declaration was submitted to the United States Patent and Trademark Office on September 30, 2005, and entered into the record on October 3, 2005.

Attorney Docket: 083022-0272515

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of: EGGERS
Application No.: 10/007,355

Confirmation Number: 3570
Group Art Unit: 1743

Filed: November 7, 2001

Examiner: Lyle Alexander

Title: SAMPLE CARRIER

DECLARATION UNDER 37 C.F.R. § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Michael Hogan, declare that:

1. I am a citizen of the United States of America.
2. My residence is 3801 East Calle de Soto, Tucson, Arizona 85716.
3. I am the Chief Scientific Officer of GenVault Corporation.
4. I am a named inventor in PCT Patent Application No. WO 01/31317 (the '317 Application) and PCT Patent Application No. WO 01/31333 (the '333 Application).
5. I am not an inventor of U.S. Patent Application No. 10/007,355 (the '355 Application).
6. I have reviewed the specification and claims of the '355 Application and have concluded that the "attachment points" recited in independent claims 1, 20 and 58 of the present '355 Application are not described in the '317 or '333 PCT Patent Applications.

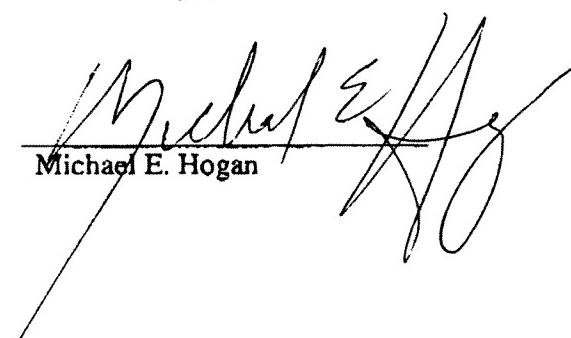
In Re: EGGERS -- 10/07,355
Client/Matter: 083022-0272515

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements are so made punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Sept 29, 2005

Date

Michael E. Hogan



State of AZ
County of PIMA



Notary Public State of Arizona
Pima County
Vicki Coone
Expires September 14, 2007

This instrument was acknowledged before me
on 29 day of Sep, 2005 by MICHAEL E HOGAN

Vicki Coone

Notary Public's Signature
My Commission Expires 9/14/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Mitchell Eggers Confirmation No.: 3570
Appln. No.: 10/007,355 Group Art Unit: 1797
Filed: November 7, 2001 Examiner: Lyle Alexander
For: **SAMPLE CARRIER**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ORDER REQUIRING ADDITIONAL BRIEFING BY APPELLANT

Sir:

This paper is timely filed in response to the Official Communication mailed on August 19, 2008. Applicant submits herewith a Substitute Evidence Appendix for the Appeal Brief filed on June 4, 2007. As ordered by the Board, the Substitute Evidence Appendix contains a copy of the Declaration Under 37 C.F.R. § 1.132 relied upon in Applicant's Appeal Brief and a statement setting forth where the Examiner entered the evidence in the record.

Dated: September 19, 2008

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
Attn: Patent Group
777 6th Street, NW
Suite 1100
Washington, DC 20001-3703
Tel: (415) 693-2002
Fax: (415) 693-2222

By: /*Nan Wu*/
Nan Wu
Reg. No. 43,360